




FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

TECHNICAL ASSISTANCE NOTE

No. 2014-01
Contact: Robin Safley
(850) 617-7400

DATE: Friday, July 18, 2014

TO: Sponsors of School Nutrition Programs

FROM: Robin Safley,  Division Director
Food, Nutrition, and Wellness

SUBJECT: Florida Competitive Food Rule Guidance and Question & Answer: 5P-1.003

The Healthy, Hunger-Free Kids Act of 2010 required the United States Department of Agriculture (USDA) to establish nutrition standards for all foods sold in schools -- beyond the federally-supported school meals programs. The USDA issued proposed rules in the Federal Register on February 8, 2013, and accepted public comment. On June 28, 2013, the USDA issued an interim final rule on this subject with the standards effective July 1, 2014. This rule requires that food and beverage items sold during the school day meet the nutrition standards for competitive foods, but also allows for special exemptions for the purposes of conducting infrequent, school-sponsored fundraisers. The rule also includes a mandate for state agencies to either establish the number of allowable exempt fundraisers, which do not meet the nutrition standards or if the State does not take action to allow for fundraising exemptions, then fundraising that does not meet the federal nutrition requirements will be prohibited.

Based on the USDA rule, the Department, in collaboration with a diverse cohort of stakeholders, drafted a rule through feedback from surveys, workshops, and a hearing for the sale of all food and beverages sold during the school day.

As a result, a proposed rule was published in the Florida Administrative Register (FAR) on June 11, 2014, a notice of change to the proposed rule was published in the FAR on July 14, 2014 & July 18, 2014, and adopted for final rule thereafter.

The rule as adopted, amends the current rule to require that competitive food and beverage items sold to students during the school day must meet the nutrition standards for competitive food as defined and required in 7 CFR 210.11. The rule prohibits the sale of competitive food items sold to students during the school day that consist of ready-to-eat combination foods of meat or meat

alternate and grain products unless being sold by the food service program. The rule permits each district school board to grant a special exemption from the nutrition standards for competitive foods as required in 7 CFR 210.11 for the purpose of conducting infrequent school-sponsored fundraisers. The rule defines the term “school-sponsored fundraiser,” and requires the establishment of a Healthy School Team by each school for the purposes of supporting the efforts of each school district.

Questions and Answers

1. Q. Are vending machines, school stores, and/ or snack bars considered fundraising for the purposes of this rule?

A. No. Vending machines, school stores, and/or snack bars are not considered “school-sponsored fundraisers,” consistent with 7 CFR 210.11. All food sold in a vending machine, school store or snack bar must meet the nutrition standards for competitive foods as defined in 7 CFR 210.11, cannot consist of ready-to-eat combination foods of meat or meat alternate and grain products, and can be sold at any time during the day.

2. Q. Do food and beverages sold to students during the day have to meet the nutrition standards?

A. Yes. Food and beverages sold to students during the school day must meet the nutrition standards for competitive food as defined and required in 7 CFR 210.11

3. Q. Can competitive foods be sold to students during the school day that consist of ready-to-eat combination foods of meat or meat alternate and grain products such as pizza, hot dogs, hamburgers, etc.?

A. Competitive foods being sold to students during the school day that consist of ready-to-eat combination foods of meat or meat alternate and grain products can only be sold by the food service program.

4. Q. Does the rule apply to foods that are not being sold such as cupcakes provided by a parent at no charge?

A. No. This rule only applies to foods being **sold** to students during the school day.

5. Q. When are school sponsored food fundraisers allowable?

- A. School-sponsored food fundraisers which **meet** the nutrition standards as defined and required in 7 CFR 210.11 are permitted to occur on any school day provided it is thirty (30) minutes after the conclusion of the last designated meal service period.
- B. School-sponsored food fundraisers which **do not meet** the standards must be granted a special exemption by the district school board not to exceed the maximum number of school days per school campus each school year as shown in the rule. These fundraisers are not permitted to occur until thirty (30) minutes after the conclusion of the last designated meal service period.

6. Q. Who is responsible for maintaining records documenting exempted school-sponsored fundraisers?

- A. Each district school board is responsible for maintaining records documenting the occurrence of any exempted school-sponsored fundraisers to demonstrate compliance with the rule.

7. Q. Why are Healthy School Teams being required?

- A. The Healthy School Team model will help ensure successful execution of the February 2014 proposed rule on *Local School Wellness Policy Implementation under the Healthy, Hunger-Free Kids Act of 2010*.

8. Q. What is the deadline for establishing a Healthy School Team?

- B. The deadline for the establishment of Healthy School Teams is June 30, 2015.